

CPD Requirements and Guidelines
For *Legal Profession Rules 2009 Part 2, Division 2* and *Legal Profession Amendment Rules 2015*

BACKGROUND

On 1 March 2009 the *Legal Profession Rules 2009* (The Rules) came into operation.

Part 2 Division 2 of the Rules requires local legal practitioners to accrue **10 CPD** points per year. This requirement is imposed by a condition on local practising certificates (CPD Condition). WA government lawyers are also to accrue 10 CPD points under arrangements set out in the *Legal Profession Regulations 2009 Part 4 Division 2*.

In 2014 the Legal Practice Board undertook a review of the *Legal Profession Rules 2009 Part 2 Division 2* and as a result the *Legal Profession Amendment Rules 2015* (LPAR 2015) were approved and gazetted on 20 February 2015. The LPAR 2015 took effect as from the CPD period commencing 1 April 2015 and the guidelines have been updated to reflect the changes.

PURPOSE OF THESE GUIDELINES

The Rules vest a number of discretionary powers in the Board. The purpose of these Guidelines is to set out the Board's general policy as to how those discretionary powers will be exercised in the ordinary case, for the purpose of informing practitioners and assisting Board members and delegates in the exercise of their functions under the rules.

It is important to bear in mind that these are Guidelines only and do not fetter the exercise of the Board's discretion in accordance with the rules. Each case that comes before the Board must be considered on its individual merits. As these are guidelines only they should be read in conjunction with the [*Legal Profession Rules 2009 Part 2 Division 2*](#) and the [*Legal Profession Amendment Rules 2015*](#)

CPD REQUIREMENTS

The period for accumulating CPD points commences on 1 April each year and ends on 31 March the following year (**CPD Period**). Points may **not** be carried over into the next CPD year. All practitioners are required to obtain 10 CPD points per CPD period unless the certificate is granted after 1 July when Rule 13B (1) of LPAR 2015 relating to *pro rata* accrual applies.

The LPAR 2015 Rules establish 4 competency areas:

- Competency Area 1 - Practice Management
- Competency Area 2 - Professional Skills
- Competency Area 3 - Ethics/ Professional Responsibility
- Competency Area 4 - Substantive Law

[Guidelines](#) for topics that may be applicable to these competency areas are available.

All practitioners are required to obtain a minimum of 1 CPD point from each competency area. If a practitioner requires a reduced number of points, due to a *pro rata* deduction or a variation granted by the Board, with at least one point from each of the competency areas.

Points may be gained by participation in an approved CPD Activity.

An approved activity may be:

- a) An activity undertaken with an [approved Quality Assured \(QA\) Provider](#).
- b) An [approved activity by a Non QA Provider](#)
- c) An activity undertaken by an [individual for which approval has been sought and given](#). [Fees apply](#)

The rate at which CPD points may be obtained, and the maximum number of points that can be obtained, for different CPD activities are indicated in the following table:

Activity Type	CPD Points	Maximum Points
1. <u>Interactive Activity:</u>		
As participant	0.5 points for each complete 30 minutes	Maximum of 6 points per single activity
Presenter who prepares the material used in the activity	1.5 points for each complete 30 minutes	Maximum of 6 points per single activity
Presenter who presents material prepared by some one else	1 point for each completed 30 minutes	Maximum of 6 points per single activity
As commentator	1 point for each complete 30 minutes	Maximum of 6 points per single activity
As chair	0.5 points for each complete 30 minutes	Maximum of 6 points per single activity
2. <u>Publication Activity</u>		
As writer (Including practitioner who prepares a presentation but does not give the said presentation)	0.5 points for each complete 500 words	Maximum of 5 points per CPD period (Cannot claim double points for writing and presenting the same paper)
As editor, as an alternative to previous item	1 point per edition	Maximum of 5 editions
3. <u>Electronic activity that is not an interactive activity or a publication activity</u>		
As a participant	1 point for each complete 60 minutes	Maximum of 4 points for a conference, course or other event comprising one or more approved CPD activities. (that is the activity should be from an approved QA Provider or one that has been approved by the Board)

CPD points may be claimed for period of either a full hour or a half hour. Lesser periods are rounded down to the nearest half hour. For example:

45 mins	0.5 CPD Point
60 mins	1 CPD point
80 mins	1 CPD Point

90 mins	1.5 CPD Points
110 mins	1.5 CPD Points
120 Mins	2 CPD points

Points may not be claimed for committee work or Board membership.

GUIDELINES

1. Requiring documents and information

Rule 13B(3) of the LPAR 2015 enables the Board to request a local legal practitioner to provide to the Board any document or information in relation to the person's compliance with the CPD condition.

Practitioners on renewal of their practising certificate will be required to certify that they have met the CPD requirements for the preceding CPD Period.

The Board will conduct audits of practitioners. Selected practitioners will be required, within 14 days, to provide a record of all CPD activities undertaken for the audit period nominated by the Board. Failure to do so may affect the renewal of the practitioner's practising certificate and may result in disciplinary action.

2. Approving QA Providers

Rule 14(2) of the Rules enables the Board to approve a person, body or group of persons as a QA provider. A professional development activity provided by a QA provider is automatically an approved CPD activity.

Approvals will generally be given for a 2 year period, after which the provider will need to re-apply for approval.

Before approval will be given the Board will be satisfied that the provider:

- has suitable experience in providing continuing legal education;
- has a suitable training infrastructure;
- can demonstrate a generally favourable assessment of CPD activities presented, as judged by the participants.

In deciding whether to approve a provider the Board may take into account, where applicable, the provider's experience in:

- providing CPD activities, including its program of providing a number of activities over a reasonable period;
- complying with any conditions attached to any approval including maintaining ongoing, accessible and appropriate records;

- the standard and appropriateness of written material for participants attending CPD activities; and
- any other matter the Board considers relevant to the application.

Approval of a QA provider will ordinarily be issued subject to the standard conditions and such other conditions as the Board considers appropriate to the particular case. The Board may choose to audit an approved QA Provider to ensure that the standard conditions are being adhered to.

The Standard conditions are:

1. QA Providers must comply with the *Legal Profession Rules 2009*, Part 2, Division 2.
2. The application fee must accompany the application.
3. QA Providers must provide the Board, upon its request, with any information it seeks from the QA provider in respect to your ongoing activity as a QA Provider, including, but not limited to, information relating to the attendance of legal practitioners at any CPD activity.
4. QA Providers must notify the Board of any material change in its circumstances during the term of this approval, including, but not limited to, changes to contact details including websites, solvency or other matters which may impact on its capacity to provide CPD.
5. Unless approved as such, QA Providers must not operate as a commercial provider of CPD.

Approvals given under the category of “Law Practice” or “In-house” QA provider are primarily granted with the intention that this covers CPD activities conducted by the law firm for their practitioners and invited clients. Where a one off presentation is delivered by a representative of an approved in-house QA provider for clients who are not approved as a QA provider in their own right, the presentation will be eligible for the allocation of CPD points without further application for approval, provided that the QA provider complies with the conditions of its QA approval.

The Board may choose to audit a person, body or group of persons approved as a QA provider in regard to the provision of professional development activities.

The Board may revoke the QA provider status of an organisation if any of the prescribed conditions have not been met.

How to apply to become a QA Provider:

- [Application for Approval as a QA Provider](#)
- [Guide for applying for QA Provider Status](#)
- [QA Provider Explanatory Notes](#)
- [CPD Application Fee Schedule](#)

3. Approving Professional Development Activities on Application by Provider

Rule 15(1) of the Rules enables the Board to approve of CPD activities conducted by a person other than a QA provider. In doing so the Board is to determine the competency area the activity is in Rule 13D of the LPAR 2015 and may allocate a different number of CPD points that can be earned from the activity as in Rule 13F(1).

When submitting an application the provider should submit the following material:

- a proposed point value for the activity;
- A proposed competency area/s classification;
- A detailed outline of what will be covered in the activity, and by whom;
- A program showing the sequence of speakers, the methods of teaching, and the amount of time each person will spend on each area;
- An outline of the activity materials;
- A brief resume of each speaker's professional qualifications, legal background and any teaching experience;
- The extent, to which the activities will be presented in, or accessible to regional areas;
- Advice that a record of attendance will be taken and that participants will be advised that this may be made available to the Board for auditing purposes;
- An undertaking that the provider will advise the participants of the point allocation for the activity; and
- Any other information required by the Board.

Applications and approvals for activities may be made and given retrospectively.

How to apply for approval of a single activity by a non QA Provider

- [Application for Approval as a Non QA Provider](#)
- [NON QA Provider Explanatory Notes](#)
- [CPD Application Fee Schedule](#)

4. Approving Professional Development Activities on Application by Participants

Rule 15(2) of the Rules allows the Board to approve CPD activities undertaken by a local legal practitioner as a participant. In doing so the Board is to determine the competency area of the activity under Rule 13D of the LPAR 2015 and may allocate a different number of CPD points that can be earned from the activity as in Rule 13F(1) of the LPAR 2015 .

When applying for approval of a specific activity the participant should submit:

- A brief description of the activity;
- A proposed point value for the activity;
- A proposed classification of the activity within one or more of the competency areas; and
- Any other information required by the Board.

How to apply for approval of an activity undertaken by an individual:

- [Application Form](#)
- [Fees](#)

5. Approving Professional Development Activities: General

Before an activity is approved under Rule 15(1) or 15(2) the Board will need to be satisfied that the activity:

- Is of sufficient intellectual or practical content and deals with matters relevant to the practice of law;
- Is conducted by persons who are qualified by academic or practical experience in the subject covered;
- Is relevant to a practitioner's immediate or long-term needs in relation to the practitioner's professional development and to the practice of law;
- Must fall within at least one of the nominated 4 competency areas; and

- All electronic material must be reviewed and if necessary updated at least every 12 months.

An approved activity may include (but not be limited to):

- Participation in a structured discussion group;
- Workshops and seminars (whether as presenter, participant or chair);
- A structured course such as the Bar Readers Course (whether as presenter, participant or chair);
- Attendance at relevant conferences as presenter or participant;
- Undertaking relevant post graduate higher education (eg LLM, MBA or PhD) at a tertiary institution;
- Lecturing or tutoring in an LLB, LLM or equivalent at a tertiary institution;
- Undertaking an approved electronic activity; and
- Writing articles for a recognised legal publication or a legal article for a quality publication or for the purposes of presenting a paper at any approved CPD activity.

6. Exemptions/Variations

Rule 17(2) of the Rules provides that the Board **may** vary the CPD requirement by either reducing the number of CPD points a practitioner is required to earn or reducing the minimum point requirements for particular competency areas.

In deciding whether to exercise this power the Board **may** have regard to any or all of the following matters specified in Rule 17(3):

- (a) the time when, or length of the period during which, the certificate is in force;
- (b) any disability, injury or illness suffered by the practitioner;
- (c) any restrictions on the practitioner's right to practice;
- (d) any period of absence from legal practice (whether on leave or otherwise) by the practitioner during the certificate year;
- (e) the location of the practitioner's principal place of practice;
- (f) the length of time for which the practitioner has been engaged in legal practice;
- (g) any other professional development or educational activities undertaken by the practitioner; and

- (h) whether compliance with the CPD condition would otherwise cause unreasonable hardship.

Without limiting matters to which the Board may have regard, applications for an exemption or variation to compliance with CPD requirements will be considered in the following circumstances:

- the practitioner has been in practice for a period exceeding 40 years and holds a restricted Practising Certificate restricting practice to that as an employee only; or
- the practitioner, by reason of the practitioner's geographical location or any physical or other disability, experiences particular hardship or difficulty in completing the required number of points; or
- the practitioner has been absent from practice because of parenting leave or illness or other extenuating circumstances (in which case exemptions will be considered on a pro rata basis); or
- the practitioner undertook CPD activities as part of the requirement of either practising in another jurisdiction or the equivalent thereof.

Other special circumstances will be considered on the merits of each application, having regard to the matters identified in Rule 17(3). Exemptions and variations are not given as a matter of course and are generally only granted when individuals can show genuine hardship in meeting their CPD requirements.

The Board does not generally grant exemptions or variations to practitioners who have maintained their practising certificate but chosen not to practice.

A practitioner who may not be able to meet their CPD compliance by the designated time should contact the Board at the earliest possible time to advise the Board on their circumstances and to seek guidance in that regard.

A practitioner who commences or recommences practice on or after the beginning of the CPD Period will generally be given a *pro-rata* exemption when their practising certificate is issued requiring the practitioner to complete the following number of points:

Month of Issue of Practising Certificate	Number of CPD points required in the CPD period commencing on 1 April immediately preceding the issue of the practising certificate
July	9
August	8
September	7
October	6
November	5
December	4

January	3
February	2
March	1
April	0
May	0
June	0

CPD points must be obtained from the competency areas as set out in amended Rule 13D of the LPAR 2015.

An [application form for an exemption or variation is available](#). [Fees](#) may apply.

Please see separate explanatory [guidelines for pro rata variations for parenting leave](#) and, new practitioners or recommencement of practice.

7. Non compliance

A practitioner who has not met their CPD compliance by the designated time will be required to declare this in their practising certificate renewal application. The practitioner will be required to provide an explanation for the non compliance which will then be considered by the Board.

A practitioner will normally be required to make up any unfulfilled CPD requirements and that requirement will become a condition on their practising certificate.

8. Fees

All applications should be accompanied by the appropriate fee.
See attached [Fee Schedules](#).

For further information on any issues relating to continuing professional development please contact the Board's Legal Education Coordinator on 6211 3600.